



Montgomery County Department of Health and Human Services  
Licensure and Regulatory Services  
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MEMORANDUM  
March 3, 2009

TO: All Pool Owners and Pool Management Companies

FROM: John Munley, Program Manager II

SUBJECT: Virginia Graeme Baker Pool and Spa Safety Act

The Virginia Graeme Baker Pool and Spa Safety Act (VGB) became effective December 19, 2008. The purpose of this act is to reduce deaths and injuries related to public swimming pool and spa suction entrapment and entanglement. VGB applies to all public swimming pools and spas in the United States. The Maryland State Department of Health and Mental Hygiene (DHMH) passed emergency legislation which amends COMAR 10.17.01, Public Swimming Pools and Spas, to incorporate VGB and is in effect as of December 19, 2008. This legislation requires that public swimming pools and spas in Maryland meet the standards established in ASME/ANSI A112.19.8-2007, *Suction fittings for swimming and wading pools, spas, hot tubs and whirlpool bathtub appliances*, for all suction outlet covers. All public swimming pools and spas currently in operation must be in compliance and all other public swimming pools and spas are expected to be in compliance prior to operation. Pool owners need to have a plan in place that meets VGB compliance deadlines.

To determine compliance, Montgomery County is requiring that a pool owner and a Pool Professional complete and submit a "Pool and Spa Facility Review Form for Compliance with the Virginia Graeme Baker Pool and Spa Safety Act" (Review Form) **for each pump system**. The **completed form** must be certified by a Pool Professional (defined as a certified professional engineer, commercial pool builder or contractor, public pool management professional or public pool consultant). **Indoor public swimming pools and spas were required to submit these forms to Licensure and Regulatory Services by January 15, 2009. Outdoor public swimming pools and spas must submit these forms no later than April 15, 2009.**

In situations where compliance to VGB is not possible due to uncontrollable circumstances, including unavailability of replacement equipment or pool services, a pool owner and a Pool Professional must complete the interim compliance variance section on the review form. This section must detail the reasons the public swimming pool or spa is not able to meet the compliance deadline, the anticipated date of compliance, and must include a description of the interim measures that will be in place until the public swimming pool or spa complies with VGB.

The Consumer Product Safety Commission (CPSC) has provided enforcement guidance on VGB due to the strict one year compliance date. The initial focus is on public swimming pools or spas which pose a higher risk of entrapment and entanglement. Therefore wading pools, in-ground spas, and training pools designed for young children will receive enforcement priority. DHMH, as of June 1, 2002, required dual main drains/suction outlets or a Safety Vacuum Release System for all public swimming pools and spas to reduce pool injuries from entrapment. This requirement is part of VGB, so public swimming pools and spas in Montgomery County are already in compliance with this provision of the act. The remaining requirements are designed to reduce injuries related to entrapment and entanglement caused by shoulder length or longer hair, fingers, limbs, jewelry, or loose fitting bathing suits.

The CPSC and DHMH recognize the challenges to VGB compliance and therefore acknowledge a "good faith effort" by the pool owner to comply with the Act. Incorporating the CPSC and the DHMH comments on what constitutes a "good faith effort"; Montgomery County expects pool owners and Pool Professionals to provide the following types of information when requesting an Interim Compliance Variance:

- A completed Review Form for VGB compliance no later than January 15, 2009 for public swimming pools and spas currently in operation and no later than April 15, 2009 for all other public swimming pools and spas
- Documentation of a contract with a Pool Professional to design and or install equipment or parts
- A copy of the purchase order for equipment or parts
- A copy of the contract with the manufacturer to design equipment or parts
- A copy of the contract with the anticipated compliance date

Currently operating public swimming pools and spas not in compliance are expected to institute interim measures to insure public health and safety. Higher risk public swimming pools and spas are required to have in place interim measures which meet the safety intent of VGB (for example, temporarily disabling the main drains/suction outlets). Lower risk public swimming pools, such as pools with suction outlets located in the bottom of diving wells or where patrons are not likely to be near the main drains, may only be required to provide a completed Review Form indicating a reasonable anticipated date of compliance. These interim measures will be reviewed on a case by case basis based upon the level of risk and the anticipated date of compliance.

The Review Form must be submitted and approved prior to any equipment replacement, repair, or construction. **There will be a one time pool equipment replacement plan review fee of \$115.00 for each pool/spa facility, which covers all public swimming pools or spas at the location.** Due to the strict compliance date, all pool owners are strongly encouraged to submit completed forms as soon as possible since they will be reviewed in the order they are received. If a Review Form is not submitted by the above referenced dates, a public swimming pool or spa may not be allowed to operate until a review form has been received and approved.

Compliance with VGB will be verified during the annual re-licensing inspection. In situations where compliance requires an alteration, such as a new sump or custom fabricated suction outlet cover, an inspection may be required after installation but prior to filling the pool. Due to the anticipated additional inspection time required for determining compliance with VGB, please try to schedule the re-licensing inspection as soon as possible.

I urge all pool owners and Pool Professionals to refer to the following links to obtain additional information on VGB:

Department of Health and Mental Hygiene's public swimming pool and spa page:

[http://www.cha.state.md.us/ofpchs/comm\\_srv/pools.html](http://www.cha.state.md.us/ofpchs/comm_srv/pools.html)

Association of Pool and Spa Professionals:

<http://www.apsp.org/32/index.aspx#vgb>

U. S. Consumer Product Safety Commission:

<http://cpsc.gov/whatsnew.html#pool>

Approved Drain Covers Compliant with the VGB:

<http://cpsc.gov/phth/draincman.html>

VGB Act Posted by NSPF:

[http://nspf.org/Documents/HR6\\_TitleXIV.pdf](http://nspf.org/Documents/HR6_TitleXIV.pdf)

I recognize the challenge that compliance with the Virginia Graeme Baker Pool and Spa Safety Act presents to all of us, and I thank you for your cooperation in ensuring that public swimming pools and spas in Montgomery County continue to operate safely.

If you have any questions or need further assistance, please contact the facility's Environmental Health Specialist directly or Licensure and Regulatory Services at 240-777-3986.